

**Address of Judge Fred McElrea
to Senior School Prizegiving – Kristen School
17 November 2000**

Mrs Scott, Mr Clague and other members of the staff, Mr Stevens and other members of the Board of Governors, distinguished guests, parents and pupils of Kristen School.

This is my third point of contact with Kristen School, yet it is the first time I have been here. My first point of contact was when my young nephew Hamish McElrea enrolled in the Junior School. My second point of contact was the trophy bearing the name of my late father FW McElrea which is, I believe, presented for public speaking in the Junior or Middle School. And so here I am today, for my third point of contact addressing an outstanding group of young people.

For me it is a pleasant change for me to be addressing young people who have had the benefit of a good education, are obviously well cared for, are ambitious and confident. Congratulations to your families, to your teachers, but also to you. Teenage years can be turbulent and testing times and it takes courage, patience and a few other virtues to stay on track. Well done!

The young people I have dealt with over the last 12 years have mostly been in trouble of many sorts. Behind their trouble with the law usually lies a raft of other troubles. I am not talking about one-off offending which is usually just part of growing up. I am talking about repeat or serious offending – involving drugs, burglary, car thefts, drink driving, robbery and so on. So often we find that the lives of those young people have been chaotic – heavy cannabis use, broken schooling, sexual abuse as children, dysfunctional families with often only one parent and little control. This is not to excuse the offending of these young people, but it does help to explain it. Often there has been little love in their lives and we should remember that wonderful Maori proverb which Mrs Scott has just used about love having to flow both outwards from us and back towards us. Indeed as someone else put it, we are only capable of love because we have first been loved.

For you who have had a good education I want to talk about two sorts of learning – learning from books and from teachers and learning by experiencing. The first of these is basically an intellectual exercise while the second engages our emotions and our spirituality. When I was your age and a little older I neglected my emotional/spiritual development in a strongly intellectual environment. With the values that Kristen encourages I hope you will avoid that mistake.

In an overtly Christian school like Kristen I am glad to be able to speak as a Christian and to draw the distinction between learning about, say,

comparative religion (which can be done in the classroom and with books and other aids) and on the other hand Christianity which has at its core not a creed to be learned but an experience of a living person namely Jesus Christ. The love of God and the forgiveness of God and the support of a God who can hold us in his arms can only be gained by an experience, not by book learning.

In a similar way restorative justice relies on the experience of the encounter with the other person rather than on just doing what we are told or following orders. The restorative justice process in this country is embedded in the Youth Court legislation of 1989 and has been applied in this country in some cases to adults through pilot schemes and voluntary groups and is in many schools now being used increasingly instead of a more disciplinarian approach to conflict resolution.

The Western model of criminal justice which applies in our adult courts is a model based on control and the use of power to enforce compliance. It relies heavily on the adversarial system which produces “winners” and “losers” out of a contest between adversaries. It is a “dominator” model as described in Rianne Eisler’s book “The Chalice and the Blade”, although she was not writing about criminal justice systems. It relies on authority, power and at the end of the day the use of force. Within the courts there is a heavy use of ritual, there is no meeting between victims and offenders, there is no real involvement of the community, and offenders are not even asked, “Did you do it?”. Did you know that a “Not Guilty plea” does not necessarily mean “I did not do it”; it can simply mean – “You prove it!”. As a Canadian politician Brent Cotter QC once said, if we managed families in that way (advising children to deny it and see if they can “get off”) we would say the family was dysfunctional – so why should it be any different with adults and with our societal structures?

I am going to tell you three stories which illustrate the very different restorative justice model that I have mentioned. These stories come from different countries and they are three of many, many stories that can be told.

1. The first story has been told on National Radio in this country because it was an award-winning Canadian documentary, “Kevin’s Sentence”. Kevin was a young man about the age of your Year 13 students now about to leave the school. Through drinking and driving he killed his two best friends. He was of an age and his crime was such that it would normally have carried a sentence of imprisonment of three or four years. However the parents of the dead boys did not want him to go to prison; they felt that their sons would not have wanted that and they wanted to see something worthwhile come out of this tragedy. After a series of meetings and discussions, a proposal was put to the Court and accepted by the Court which involved this young man performing many hundreds of hours of community service. His particular form of community service was to speak to school students about what it is like to kill your two best friends. The wreck of the car was still available and it was put on a trailer and towed behind a police car which would go into the school grounds early in the morning. As the pupils arrived at school they would mill round this amazing sight and wonder what it meant. At lunch time or after school they met in the gymnasium or school hall when Kevin would talk to them about that terrible night when his drunken driving resulted in the death of his two best mates. You could apparently hear a pin drop in the hall. The experience was so emotionally demanding on Kevin that after three or four such meetings they videod a meeting and after that

the video was shown to the school assemblies and Kevin then answered questions about it.

There was an appeal to the Court of Appeal against the sentence which the police felt was too light. The Court of Appeal upheld the sentence saying that it was a better deterrent than if Kevin had gone to prison. That was in fact true; over the ensuing summer months the number of young people of about Kevin's age who died in road accidents in that part of Canada dropped away dramatically.

2. The next story is about a group of young street kids in the Thames Valley part of England who had been throwing rocks or stones on to the road at passing traffic. The police in that part of England operate a restorative justice diversion scheme and these young people and their parents were brought in for a meeting with the police and with one or more of the drivers who had been involved in that incident. Initially the young people's attitude had been very "ho hum" but apparently the big change came when the personnel manager of the trucking company which owned one of the vehicles spoke about his experience a month or so earlier of going to break the news to a young woman and her children about the death of her husband/their father who had been one of his drivers. He was in tears by this stage of the meeting and he said that he never ever wanted to go through that experience again.
3. The last story is closer to home. It relates to a young man in Wellington who at the age of 16 committed two burglaries. He had been in trouble before and been to family group conferences but this time he didn't wait around; he took off for the South Island and the police lost contact with him. Two years later something had changed in his life. His partner was pregnant and he was going to become a father. He wanted to clean up his past and put behind him the mistakes that he had made so that they did not come back to haunt his new family. He handed himself into the police and asked that a family group conference be arranged where he could meet the people who owned the two houses he had burgled. He had a job and he had worked out that he could repay the damage suffered by these two families (which was quite a lot of money – about \$1500) at \$50 per week. He put forward that proposal and on a whiteboard set out his entire budget including expected expenses for when the baby arrived. He also offered to do community service in addition to paying this reparation.

The victims were so impressed that they said they wanted the \$1500 spent not on themselves but on the baby, to make sure that it had the start in life which the young offender had never had. They also said that instead of community service they wanted him and his partner to attend a parenting course. They wanted to see the cycle broken which he had been caught up in from a young age. The victims also wanted to be kept informed and it was agreed that when the baby was six months old, the young man would write a letter to them to tell them how things had been going for him and his new family.

What do these stories illustrate and what relevance do they have to your school motto – Vision, Integrity and Love?

1. First of all they demonstrate that there are often more effective means of deterrence than harsh punishment such as imprisonment. As an English writer and film maker Roger Graef put it recently:

“All their lives are full of punishment. If you are a Home Secretary [Minister of Justice] or you are a comfortable person sitting in a good well-balanced home, you think punishments are a serious threat, but if you have been brought up being battered around when you have just opened your mouth at the wrong time, then more punishment is just normal stuff. Your cousins have been in jail, your uncles have been in jail, your father may have been in jail, it’s nothing.”

2. Secondly it is the interaction of people, the conversation between them, that can produce real change – it comes about through human encounter, not edicts or orders delivered from above. In Canada it was the victims’ initiative to which Kevin responded and then it was the response of other young people to Kevin which was so important. In the Thames Valley case it was the interaction of the street kids with the indirect victim, the personnel manager. In the case from Wellington it was the young person’s initiative and taking of responsibility which in turn produced such wonderful generosity of spirit from the victims and led on in turn to new possibilities for the baby yet to be born.

3. Most victims do not seek revenge. This is a myth which the media often promulgate but Victim Support, the New Zealand-wide network for victims, will confirm that it is just that – a myth. They say that most victims want positive outcomes – win-win solutions, not win-lose solutions, they want offenders held accountable in a meaningful way, they want to obtain answers to their questions, they want plans to be monitored and followed through.

4. These stories also illustrate that the best learning is often by seeing things through the eyes of others.

5. There is a role for forgiveness but it should never be something expected of victims. It is theirs to give if they feel it appropriate at the time. Restorative justice allows a place for forgiveness but also a place for grace, for unearned generosity of spirit, and its transforming power. It is very easy on an occasion like this (a school prizegiving) to be caught up in the belief that we succeed in life by our own efforts and those of us who do well thoroughly deserve it. That of course is not the Christian message. I strongly recommend to you Phillip Yansey’s wonderful book “What’s So Amazing About Grace?” which explores this concept. Coming back to restorative justice the gracious response of the victims in the Wellington case was, for Christians, an expression of the love of God – and for non Christians perhaps an expression of that love which desires the good of the other. Only the gracious power of love can break the cycle of violence, anger and revenge.

6. Integrity has many strands to it. At one level it is the ability to live out standards without supervision, when no one else would know otherwise. For example you make a small purchase in a shop and hand over a \$20 note. You notice that the shop attendant by mistake gives you back an extra

\$5. Do you take it because you can get away with it? It also means being true to yourself and not just following the crowd, giving in to peer pressure. This is so whether we are talking about drug and alcohol abuse amongst young people or about peer pressure affecting business ethics. However integrity also has something to do with being accountable, taking responsibility for oneself. In each of these stories a willingness to admit error and say “I am sorry” was the trigger for change. Often the reality of one’s mistakes are obscured by self justification and excuses – until our eyes are opened by the graciousness of others and that graciousness is a gift that we can all offer to each other.

And so, congratulations to you all – for what you have achieved this year. For those not returning, good luck - and take with you the values that have been part of your education here. And remember the advice of the Old Testament prophet Micah (chapter 6 verse 8):
“To act justly, to love mercy, and to walk humbly with your God”.